

# McDermott Will&Emery

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May 9, 2008

VIA E-MAIL AND U.S. MAIL

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Re: *Vesta Strategies, LLC v. Robert Estupinian, et al.*, Case No. C 07-06216 JW

Dear Mr. O'Dea:

We are writing in response to Robert and Ginny Estupinians' April 30, 2008 motion to compel tax records and documents. In that motion, the Estupinians request the production of certain financial and tax documents concerning Vesta Strategies, LLC because the Estupinians are allegedly being personally audited by the Internal Revenue Service.

Preliminarily, we object to, disagree with, and dispute the purported basis for the Estupinians' motion to compel and the Estupinians' alleged ability to obtain these documents through this litigation, under California law, or otherwise. For example, the Estupinians' motion to compel is unfounded because, among other reasons, it purports to compel documents that have not even been legitimately and appropriately requested through the discovery process. Vesta Strategies therefore reserves all of its rights, including without limitation its right to object to the production and use of these documents under California law or in the litigation should the Estupinians ever request them through discovery.

Further, because of the Estupinians' wrongful conduct detailed in Vesta Strategies' Complaint (which we cannot confirm is all of the Estupinians' wrongful conduct), Vesta Strategies cannot produce accurate tax records at this time. After Vesta Strategies filed its 2006 tax return, it subsequently discovered that its return was incorrect because of the fraudulent and wrongful actions of Robert and Ginny Estupinian. Indeed, the Estupinians provided false and misleading information about the expenses of Vesta Strategies. The Estupinians' wrongful conduct has put Vesta Strategies in a difficult position. Since discovering the Estupinians' wrongful conduct, Vesta Strategies has been working on and continues to work on preparing and filing an amended tax return. That process has been especially difficult because Vesta Strategies is being extra careful to try to properly account for the Estupinians' wrongdoing so that its amended tax return will be accurate.

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Thus, despite not having an obligation to do so, Vesta Strategies will agree to produce a copy of the amended 2006 tax return to the Estupinians once it is filed, provided that the Estupinians agree in writing to use that information for purposes of the IRS audit only and for no other purpose. We therefore ask that the Estupinians withdraw their pending motion to compel.

Sincerely,



Aron J. Frakes

cc: Paul E. Chronis  
Daniel E. Alberti

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